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Louis S. Sorell
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112-4498

In re Application of
WELKER, Hans-Herbert et al.
Application No.: 10/030,340
PCT Application No.: PCT/DE00/02117
International Filing Date: 29 June 2000
Priority Date: 07 July 1999
Attorney Docket No.: A34843-PCT-USA
For: METHOD AND DEVICE FOR
PRODUCING A STRAND MADE
FROM METAL

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

Applicants' "Petition To Revive Abandoned Application Pursuant To 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 16 April 2002 is **GRANTED**.

BACKGROUND

On 29 June 2000, applicants filed international application number PCT/DE00/02117, which claimed a priority date of 07 July 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau on 18 January 2001. On 27 December 2000, a demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 07 January 2002.

On 20 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a check for \$740.

On 01 April 2002, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to pay the basic national fee by thirty months and that the deposit account had insufficient funds.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants state "the abandonment was unintentional." This is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, petitioner must notify PTO. The appropriate national fee, petition fee and international application have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.



Richard Cole
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459